

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

U.S. DISTRICT COURT
BANGOR, MAINE
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UNITED STATES OF AMERICA)

v.)

TIMOTHY S. KLIMAS)

) Magistrate Case No. 1:14-mj-00143-JCH
) COMPLAINT FOR VIOLATION OF
) 18 U.S.C. §§ 2251(a), 2251(e), 2252(a)(1),
) 2256(8)(A)

COMPLAINT

The undersigned complainant, being duly sworn, states:

COUNT ONE

(Sexual Exploitation of Female Minor Child "A" and Female Minor Child "B" and Female Minor Child "C")

On about between June 21, 2014, and August 12, 2014, in the District of Maine,
defendant

TIMOTHY S. KLIMAS

knowingly employed, used, persuaded, enticed, and coerced a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of that conduct. The visual depictions were of female minor "A", female minor "B", and female minor "C". Those visual depictions were produced using materials that had been mailed, shipped, and transported in interstate and foreign commerce and those depictions were actually transmitted using a means of interstate commerce and in and affecting interstate commerce.

The defendant thus violated Title 18, United States Code, Sections 2251(a) and 2251(e).

COUNT TWO

(Transporting or Shipping Child Pornography)

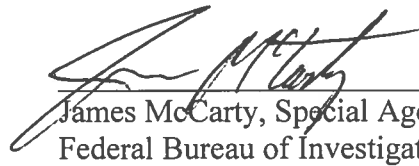
On about between June 21, 2014, and August 12, 2014, in the District of Maine,
defendant

TIMOTHY S. KLIMAS

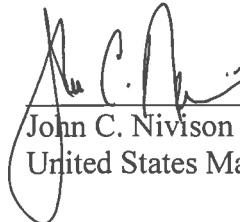
knowingly transported child pornography using any means or facility of interstate and foreign commerce and in or affecting interstate and foreign commerce by any means, including by computer. Specifically, the defendant transmitted an image or images of child pornography using the internet.

The defendant thus violated Title 18, United States Code, Sections 2252A(a)(1) and 2256(8)(A).

The complainant states that this complaint is based on the attached affidavit, which is incorporated by reference.


James McCarty, Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 20th day of August 2014.


John C. Nivison
United States Magistrate Judge

AFFIDAVIT IN SUPPORT OF A COMPLAINT

I, James McCarty, being first duly sworn, hereby depose and state as follows:

1. I have been employed as a Special Agent of the FBI since 1996, and am currently assigned to the Bangor, Maine Resident Agency. While employed by the FBI, I have investigated federal criminal violations related to cyber crime, child exploitation, and child pornography. I have received training in the area of child pornography and child exploitation, seen numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media including computer media.

2. This affidavit is intended to show only that there is sufficient probable cause for the requested complaint and warrant and does not set forth all of my knowledge about this matter. The facts set forth in this affidavit are based on my personal knowledge, information obtained during my participation in this investigation, information from others including law enforcement officers, my review of documents and computer records related to this investigation, and information gained through my training and experience.

BACKGROUND OF INVESTIGATION AND PROBABLE CAUSE

3. On July 23, 2014, an agent with the FBI gained access to a website referred to in this affidavit as "Website 19".¹ The primary purpose of that website is the advertisement and distribution of child pornography. During his review of "Website 19," the agent viewed numerous image and/or video files that appeared to contain child pornography or child erotica,

¹ The actual name of this website is known to law enforcement. Investigation into the users of the site remains ongoing and disclosure of the name of the site could alert users to the fact that law enforcement action is being taken against the site, potentially causing users to notify other users of law enforcement action, flee, and/or destroy evidence.

including images depicting prepubescent females, males, and toddlers, as well as images depicting the anal, vaginal, or oral penetration of prepubescent minors.

4. On Augusta 18, 2014, a second undercover FBI agent viewed the user profile of “Website 19” user “User 1.”² Profile information on “Website 19” may include contact information and other information that is supplied by the user.

5. On July 19, 2014, User 1 made a post on Website 19 that contained, among other things, a preview image that contained approximately 42 smaller images depicting child pornography and child erotica of a prepubescent or early pubescent female [Minor A]. Several of these images depicted this female lying on her back with her legs spread apart and raised in the air, exposing her vagina and anus. The minor’s genitals are the clear focus of the image and the depiction is portrayed in a way that appears designed to elicit a sexual response in the viewer. In the text associated with these images, User 1 provided the name of Minor A. I have attached one of those images to this affidavit under seal as Exhibit A.

6. On July 14, 2014, User 1 made a post on Website 19 that contained, among other things, a preview image that contained approximately 71 smaller images depicting child pornography and child erotica of two prepubescent females [Minors B and C]. Two larger images were also posted by this user. One of these larger images depicts Minor B sitting on a chair or a couch with her legs spread apart and exposing her vagina. The minor’s genitals are the clear focus of the image and the depiction is portrayed in a way that appears designed to elicit a sexual response in the viewer. In the text associate with this image, User 1 provided the first name of Minor B. I have attached to this affidavit a copy of this image under seal as Exhibit B.

² “User 1” is not the user name provided by the user. I am using the designation “User 1” instead of the actual name provided in order to protect an ongoing investigation related to “Website 19”.

The second larger image depicts Minor C sitting on the same couch with her legs spread apart and exposing her vagina. The minor's genitals are the clear focus of the image and the depiction is portrayed in a way that appears designed to elicit a sexual response in the viewer. In the text associated with this image, User 1 provided the first name of Minor C. I have attached to this affidavit a copy of this image under seal as Exhibit C.

7. The post described in Paragraph 6 also contained hyperlinks to external file-sharing websites that contained the full versions of the preview images. After accessing these hyperlinks, the undercover FBI agent downloaded the files. Those files are approximately 72 images depicting prepubescent females who appeared to be the female children depicted in the images described in Paragraph 6. Many of these images show Minor B with her legs spread apart and her vagina exposed and many of the images show Minor C with her legs spread apart and her vagina exposed. For both minors, the genitals are the clear focus of the images and the depictions are portrayed in a way that appears designed to elicit a sexual response in the viewer.

8. On August 19, 2014, I learned that an officer with the Newport, Maine Police Department has been investigating a report that the defendant, Timothy S. Klimas, sexually abused two minor children. According to the investigating officer in that case, one of those children is a girl who is six years old and the other child is a girl who is two years old. The first name of the older girl is the name used by User 1 (for which I have substituted the designation "Minor B") in the posting described above in paragraph 6. The first name of the younger girl is the name used by User 1 (for which I have substituted the designation "Minor C") in the posting described above in paragraph 6. Law enforcement confirmed that the defendant has had unsupervised access to the girls in recent months.

9. On August 19, 2014, I worked with officers of the Bangor Police Department to

locate the child I have referred to as "Minor A" in this affidavit. We were able to determine where she lives in Bangor and when we arrived at that residence the defendant was on the side porch. We approached him and asked if we could talk to him for a minute. He replied, "yes". We asked whether he knew why we were there. He said that he did and that it was about the girls. We told him that we wanted to talk to him about Minor A and he asked if we also wanted to talk about Minor B and Minor C. We informed him that he was not in custody and that he did not need to talk to us and that he was free to leave anytime. We asked him if he would talk to us in my vehicle and he agreed to talk to us there and he got in my vehicle. He then told us that he would prefer to talk to us at the police station.

10. We gave the defendant a ride to the Bangor police station. The interview with the defendant was recorded. In short, the defendant told us that he had repeatedly sexually abused Minor A, Minor B, and Minor C. He told us that he had performed oral sex on each of them and had ejaculated between the legs of Minor A. He also told us that he had used a digital camera and his phone's camera to record instances of the abuse of each girl and had posted the images of the sexual abuse to "Website 19" for others to view and download. He provided us with details of when and where the abuse had occurred. He told us that he had disposed of the images of the sexual abuse.

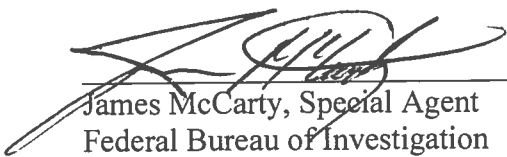
CONCLUSION

11. Based on the foregoing, there is probable cause to believe the defendant, Timothy S. Klimas, has sexually exploited a child or children in violation of Title 18, United States Code, Section § 2251(a) and he transported child pornography in violation of Title 18, United States Code, Section 2252A(a)(1).

I, James McCarty, hereby swear under oath that the information set forth in this affidavit

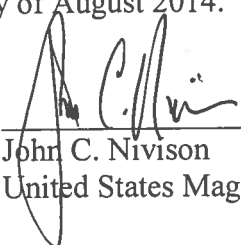
is true and correct to the best of my knowledge, information and belief, and that I make this oath under pains and penalties of perjury.

Dated at Bangor, Maine this 20th day of August 2014.



James McCarty, Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 20th day of August 2014.



John C. Nivison
United States Magistrate Judge